



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

October 17, 1988
AO-88-32

Alec Gray, Esquire
205 Portland Street, Sixth Floor
Boston, MA 02114

Dear Mr. Gray:

This letter is in response to your request for an advisory opinion on two issues of concern to your clients, the Quality of Life Committee, Eastern Mass. Bricklayers' PAC Fund and Sheet Metal Workers Local 6 PAC Fund which arise pursuant to M.G.L. c.55, the campaign finance law. The issues, the facts pertaining to such issues and the opinion of this office as to such issues are set forth separately below.

1. May a multi-candidate committee make isolated, incidental and independent expenditures to influence the vote on a ballot question?

You have stated the Quality of Life Committee (the "QL Committee") is a political committee organized pursuant to M.G.L. c.55 expressly for the purpose of opposing the repeal of the prevailing wage law.

In addition, there are several political committees organized by members of labor unions, among them Eastern Mass. Bricklayers' PAC Fund and Sheet Metal Workers Local 6 PAC Fund (the "Union Committees"), which also wish to make expenditures for the purpose of opposing the repeal of the prevailing wage law. These political committees are organized with this office as multi-candidate committees, generally with the express purpose of furthering the interests of labor through the electoral process.

Specifically, you have noted that the Union Committees wish to make expenditures to influence the vote on the ballot question. The type of expenditure contemplated is one which will be made independently of the QL Committee and

not as part of any campaign strategy. Such expenditures would be incidental in that they would not comprise a significant amount of each such committee's annual political activity. The particular types of expenditures that are contemplated include the printing of shirts to be given out at labor picnics bearing wording urging a "no" vote on Question 2 and the printing of bumper stickers or other written material.

Section 6 of M.G.L. c.55 states, in pertinent part: "[a]ny ... political committee, duly organized, may receive, pay and expend money or other thing of value ... for the principle for which the committee was organized so long as such expenditure is not primarily for ... any ... person's personal use ..." Section 6 also contains certain limitations on expenditures, none of which would apply to the type of independent expenditure presently contemplated by the Union Committees.

In addition, the Supreme Court has stated that "the governmental interest in preventing corruption and the appearance of corruption is inadequate to justify [a] ceiling on independent expenditures." Buckley v. Valeo, 424 U.S. 1, 45 (1975). More recently, the Court reiterated this stance with particular application to political committees. See FEC V. National Conservative PAC, 470 U.S. 480, 497 (1984).

It is, therefore, the opinion of this office that, based on the case law cited above and the fact that the contemplated expenditures may be construed as supporting the principle for which the committees were organized, the Union Committees may make the type of independent expenditures described above.

2. Are ballot question committees subject to the \$1,000 limit on contributions between committees as stated in Section 6 of M.G.L. c.55?

You have stated that there are three political committees organized with this office for the purpose of opposing Question 2: the QL Committee, Citizens for Fairness in Public Construction and the Quality of Life Corporate Committee (collectively, the "Ballot Committees"). All three Ballot Committees have different officers and maintain separate accounts. You have further stated that these committees are aware of the existence of each other and that they are desirous of coordinating their efforts. The desired coordination would take the form of contributing either funds or other forms of assistance. The Ballot Committees consider such coordination of efforts to be absolutely essential to a successful state-wide campaign on the ballot question.

Section 6 of M.G.L. c.55 states, in relevant part, "[a] political committee not organized on behalf of an individual candidate may contribute to another political committee not organized on behalf of an individual candidate; provided, however, that the aggregate of all such contributions for the benefit of any one such political committee shall not exceed in any one calendar year the sum of one thousand dollars."

Although this section would, on its face, be applicable to ballot question committees, Supreme Court decisions interpreting limitations placed on ballot question expenditures would not support such an application.

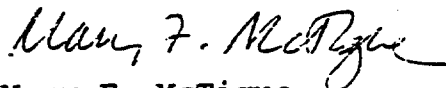
Individual contributions to a ballot question committee are not limited by the campaign finance law (see section 7 of M.G.L. c.55). In discussing an issue similar to one posed here, the Supreme Court stated: "There are, of course, some activities, legal if engaged in by one, yet illegal if performed in concert with others, but political expression is not one of them. To place a Spartan limit -- or indeed any limit -- on individuals wishing to band together to advance their views on a ballot measure, while placing none on individuals acting alone, is clearly a restraint on the right of association. [The campaign finance law] does not seek to mute the voice of one individual, and it cannot be allowed to hobble the collective expressions of a group." Citizens Against Rent Control v. Berkeley, 454 U.S. 290, 297 (1981).

Based on the foregoing analysis and the fact the Ballot Committees are organized to oppose the same ballot question, this office is of the opinion that the contribution limitations set forth in section 6 of M.G.L. c.55 would not be applicable to such committees.

This opinion has been rendered solely on the basis of the representations made in your letter.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,



Mary F. McTigue
Director

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